

CAUSE NO. PD-0967-17

PETER ANTHONY TRAYLOR	§	IN THE COURT OF	FILED
	§		COURT OF CRIMINAL APPEALS
VS.	§	CRIMINAL APPEALS	12/18/2017
	§		DEANA WILLIAMSON, CLERK
STATE OF TEXAS	§	OF TEXAS	

**FIRST AMENDED MOTION FOR REASONABLE BAIL
PENDING FINAL DETERMINATION OF APPEAL**

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes Peter Anthony Traylor, Appellant in the above styled and numbered cause, and moves the Texas Court of Criminal Appeals to set bail in a reasonable amount pending final determination of an appeal, pursuant to Tex. Code Crim. Proc. Ann. art. 44.04(h), and in support thereof shows the following:

1. Tex. Code Crim. Proc. Ann. art. 44.04(h) provides, in pertinent part:

If a conviction is reversed by a decision of a Court of Appeals, the defendant, if in custody, is entitled to release on reasonable bail, regardless of the length of term of imprisonment, pending final determination of an appeal by the state or the defendant on a motion for discretionary review.

* * *

If the defendant requests bail after a petition for discretionary review has been filed, the Court of Criminal Appeals shall determine the amount of bail.

* * *

The defendant's right to release under this subsection attaches immediately on the issuance of the Court of Appeals' final ruling as defined by Tex. Cr. App. R. 209(c).

2. Appellant has been continuously confined, first at the Collin County Jail, then, at the Texas Department of Criminal Justice, under a sentence of twenty (20) years imprisonment, since sentenced on May 14, 2013. On May 25, 2017 (August 3, 2017), the Court of Appeals reversed appellant's conviction for the first-degree felony burglary offense and rendered a judgment of acquittal on that charge, rendered a judgment of conviction on the second-degree felony burglary offense, and remanded the proceedings back to the Trial Court consistent with the Appellate Court's opinion. *See Peter Anthony Traylor v. State*. Since a petition for discretionary review has been filed, Article 44.04(h) requires that this Court "shall determine the amount of bail". This provision makes it clear that appellant is absolutely entitled to reasonable bail.

3. Appellant requests the Court of Criminal Appeals to consider the following in determining appropriate bail in this case: (1) During the punishment

phase of Appellant's jury trial there was not a single prior misdemeanor conviction nor a single prior felony conviction offered by the State for the Court's consideration; (2) During the punishment phase of Appellant's jury trial there was not a single misdemeanor offense for which Appellant was placed on deferred adjudication or post-conviction community supervision nor a single felony offense for which Appellant was placed on deferred adjudication or post-conviction community supervision offered by the State for the Court's consideration; (3) During the punishment phase of Appellant's jury trial there was not a single instance of a prior or current misdemeanor or felony charge which was pending against Appellant or which a final disposition had been rendered against Appellant resulting in a final conviction (including no instance of post-conviction community supervision) or a deferred sentence or adjudication in the State of Texas or any other State; (4) Appellant was found to be indigent in 2010 and continues to be considered by the Trial Court as indigent. According to the mother of Appellant, Ms. Angela Traylor, Appellant has absolutely no resources available in any form to be used to post bail. Moreover, Ms. Traylor also indicated that the total amount of resources available to their family for the purpose of posting a bail is no more than \$500.00 (Five Hundred Dollars and No

Cents); (5) Following Appellant's posting of the \$500,000.00 personal bond after the first jury trial resulted in a mistrial the State filed no oral or written request or motion to hold Appellant's PR bond insufficient or forfeit his PR bond because of any failure by Appellant to comply with the conditions of Appellant's PR bond. Moreover, there is also no oral or written order of the Trial Court indicating Appellant failed to comply with any conditions of his PR bond; (6) Appellant resided with his father, Steven Paul Traylor, and mother, Angela D. Traylor for 18 years in Arlington, Texas before moving to Jacksonville, Texas and residing there for 7 years before being sentenced to 20 years TDC in May 2013. The paternal side of Appellant's family resides in Jacksonville, Texas and the maternal side of Appellant's family resides in Arlington, Texas. Appellant has been a resident of the State of Texas his entire life, and has resided either in Arlington or Jacksonville, Texas for his entire life (prior to TDC incarceration). Appellant would reside at 569 CR 1416, Jacksonville, Texas 75766 following this Court's determination of bail and Appellant's posting of said bail; (7) Appellant was a member of the United States Army from 2006-2008, resided in the Collin County jail from 2010 (Arrest) to December 2012 (Mistrial of Trial #1), and from December 2012 to May 2013 was living with his family while on PR bond

following the December 2012 mistrial. During that time Appellant maintained employment at a construction company, according to Ms. Traylor. Considering the totality of circumstances, appellant requests to be admitted to reasonable bail, in the amount of no more than \$1,000.00, pending final determination of this appeal.

WHEREFORE, PREMISES CONSIDERED, Appellant prays that this Court set bail pending final determination of this appeal in the amount of \$1,000.00.

Respectfully submitted,

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By: /s/ Marc J. Fratter
Marc J. Fratter
State Bar No. 24029973
Attorney for Peter Anthony Traylor

CERTIFICATE OF SERVICE

This is to certify that on December 13, 2017, a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Collin County, Texas and the Office of Texas State Prosecuting Attorney, Ms. Stacey Soule, Esquire, by electronic delivery.

/s/ Marc J. Fratter

Marc J. Fratter

STATE OF TEXAS
COUNTY OF COLLIN

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AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared
Marc J. Fratter, who after being duly sworn stated:

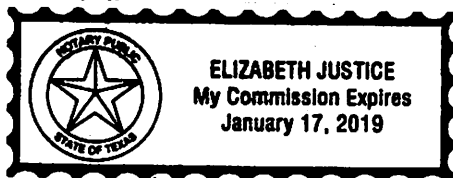
"I am the attorney for the appellant in the above numbered and entitled cause. I have read the foregoing ***First Amended Motion for Reasonable Bail Pending Final Determination on Appeal*** and swear that all of the allegations of fact contained therein are true and correct."

MARC J. FRATTER

Marc J. Fratter
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on 12/13,

2017, to certify which witness my hand and seal of office.



Elizabeth Justice
Notary Public, State of Texas